



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 5982-99

10 December 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 6 October 1980 for five years as an AMS3 (E-4). At the time of your reenlistment, you had completed nearly seven years of prior of active service.

The record reflects that you were promoted to AMS2 (E-5) and served without incident until 2 March 1984 when you were arrested by civil authorities for driving under the influence (DUI) of alcohol. The incident report of your arrest indicates that you had a blood alcohol content of .24%. You pled guilty to DUI and were fined \$276.80 and placed on probation for six months. Your driver's license was suspended for six months and you were ordered to attend DUI school and perform 50 hours of community service.

On 9 March 1984 the commanding officer (CO) was advised that you had been referred to the counseling and assistance center for a possible alcohol problem. You reported that you had been given a

ticket in February by base security. However, your version as to what happened differed from that contained in the security report. You were inconsistent in the information you provided and found it difficult to remember dates and events. Your service record revealed marginal performance and a lack of motivation and initiative.

On 27 March 1984, you were found guilty in military traffic court of DUI on 4 February 1984. Your on-base driving privileges were revoked for one year, and you were ordered to attend the Navy Alcohol and Drug Safety Action Program and driving improvement courses. Thereafter, the substance abuse coordinator advised the medical officer that you had been recommended for level III inpatient alcohol rehabilitation treatment and requested that you be placed on Antabuse.

On 22 May 1984 the CO was advised by the naval hospital that since your admission for treatment you showed no motivation to make a serious attempt at recovery, refused to effectively participate in the program, and hindered the treatment of other individuals. It was concluded that you were not amenable to further treatment and your potential for further useful service was nil. It was recommended that you be processed for discharge on the basis of failure to cooperate in your treatment for alcoholism.

On 8 June 1984 you were notified that you were being considered for discharge by reason of alcohol abuse rehabilitation failure as evidenced by your failure to cooperate in the rehabilitation program. You were advised of your procedural rights, declined to consult with counsel, and waived your rights. Thereafter, the CO recommended your separation. The Commander, Naval Military Personnel Command approved the recommendation and directed separation by reason of alcohol abuse rehabilitation failure with the type of discharge warranted by the service record, and assignment of an RE-4 reenlistment code. You were so discharged on 12 July 1984.

Regulations require the assignment of an RE-4 reenlistment code to individuals discharged by reason of alcohol abuse rehabilitation failure. The Board noted your explanation concerning your second DUI and the contention that you were discharged because medical personnel claimed you were not cooperating in your treatment because you could not remember how many beers you drank per day when you were 19. However, the Board was not convinced that you would have been released from treatment solely on that basis. Individuals assigned to alcohol rehabilitation treatment are expected to fully participate and cooperate in their treatment. When you showed no motivation after two weeks, the hospital had no other recourse but release you from treatment and

recommend separation. Since you were treated no differently than others discharged under similar circumstances, the Board could find no error or injustice in your assigned reenlistment code. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director